

# House File 2011 - Introduced

HOUSE FILE 2011  
BY WILLEMS

## A BILL FOR

1 An Act relating to the assignment of visitation or physical  
2 care parenting time to a grandparent based on relocation of  
3 a parent.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. NEW SECTION.   598.41E   Assignment of visitation or  
2   physical care parenting time — relocation of parent.

3     1. Notwithstanding any provision to the contrary, a  
4   parent who has been granted court-ordered visitation with the  
5   parent's minor child may file an application for modification  
6   of a decree or a petition for modification of an order  
7   regarding child visitation, prior to or during the time the  
8   parent is relocated to a location which is two hundred fifty  
9   miles or more from the residence of the custodial parent of  
10  the minor child, to temporarily assign a portion of that  
11  parent's visitation to a grandparent of the minor child, as  
12  specified by the parent. The application or petition shall be  
13  accompanied by an affidavit from the grandparent indicating  
14  the grandparent's knowledge of the application or petition and  
15  willingness to exercise the parent's visitation during the  
16  period of the assignment. The application or petition shall  
17  also request any change in the visitation schedule necessitated  
18  by the assignment.

19    2. Notwithstanding any provision to the contrary, a  
20  parent who has been granted court-ordered physical care or  
21  joint physical care of the parent's minor child may file an  
22  application for modification of a decree or a petition for  
23  modification of an order regarding child custody, prior to or  
24  during the time the parent is relocated to a location which is  
25  two hundred fifty miles or more from the residence of the other  
26  parent of the minor child, to temporarily assign a portion of  
27  the parent's physical care parenting time to a grandparent of  
28  the minor child, as specified by the parent. The application  
29  or petition shall be accompanied by an affidavit from the  
30  grandparent indicating the grandparent's knowledge of the  
31  application or petition and willingness to exercise the  
32  parent's physical care parenting time during the period of the  
33  assignment. The application or petition shall also request  
34  any change in the physical care parenting time schedule  
35  necessitated by the assignment.

1     3. *a.* The court may grant the parent's request for  
2 temporary assignment of visitation or physical care parenting  
3 time and any change in the visitation or physical care  
4 parenting time schedule requested if the court finds that such  
5 assignment of visitation or physical care parenting time is in  
6 the best interest of the child.

7     *b.* In determining the best interest of the child, the court  
8 shall ensure all of the following:

9       (1) That the grandparent is not a sex offender as defined in  
10 section 692A.101.

11       (2) That the grandparent does not have a history of domestic  
12 abuse, as defined in section 236.2. In determining whether a  
13 history of domestic abuse exists, the court's consideration  
14 shall include but is not limited to commencement of an action  
15 pursuant to section 236.3, the issuance of a protective order  
16 against the individual or the issuance of a court order or  
17 consent agreement pursuant to section 236.5, the issuance of an  
18 emergency order pursuant to section 236.6, the holding of an  
19 individual in contempt pursuant to section 664A.7, the response  
20 of a peace officer to the scene of alleged domestic abuse or  
21 the arrest of an individual following response to a report of  
22 alleged domestic abuse, or a conviction for domestic abuse  
23 assault pursuant to section 708.2A.

24       (3) That the grandparent does not have a record of founded  
25 child or dependent adult abuse.

26       (4) That the grandparent has an established relationship  
27 with the child and assigning visitation or physical care  
28 parenting time to the grandparent will provide the child the  
29 opportunity to maintain an ongoing family relationship that is  
30 important to the child.

31       (5) That the grandparent demonstrates an ability to  
32 personally and financially support the child and will support  
33 the child's relationship with both of the child's parents  
34 during the assigned visitation or physical care parenting time.

35     4. An order granting assignment of visitation or physical

1 care parenting time under this section does not create separate  
2 rights to visitation or physical care parenting time for a  
3 person other than the parent. An order granting assignment of  
4 visitation or physical care parenting time under this section  
5 does not grant any custodial or parental rights to any person  
6 who is not the parent of the child.

7 5. An order granted under this section may temporarily  
8 assign visitation or physical care parenting time that is less  
9 than the visitation or physical care parenting time awarded to  
10 the parent whose visitation or physical care parenting time is  
11 assigned in order to retain a portion for that parent.

12 6. The parent whose visitation or physical care parenting  
13 time is temporarily assigned shall provide a copy of the order  
14 granting assignment of visitation or physical care parenting  
15 time to the school and school district of the child to whom the  
16 order applies.

17 7. An order granting temporary assignment of visitation or  
18 physical care parenting time pursuant to this section shall  
19 specify the duration of the assignment and shall terminate upon  
20 completion of the specified duration period.

21 8. As used in this section, "*parenting time*" means actual  
22 time spent with the child as specified in a decree or order,  
23 but does not include any other element of legal custody,  
24 physical care, or joint physical care.

25 EXPLANATION

26 This bill provides for the assignment of visitation or  
27 physical care parenting time to a grandparent when a parent  
28 relocates to a location which is 250 miles or more from  
29 the residence of the custodial or other parent of the minor  
30 child. The bill provides that a parent who has been granted  
31 court-ordered visitation or physical care with the parent's  
32 minor child may file an application for modification of a  
33 decree or a petition for modification of an order regarding  
34 child visitation or parenting time, to temporarily assign a  
35 portion of that parent's visitation or parenting time to a

1 grandparent of the minor child, as specified by the parent.  
2 The application or petition must be accompanied by an affidavit  
3 from the grandparent indicating the grandparent's knowledge  
4 of the application or petition and willingness to exercise  
5 the parent's visitation or parenting time during the period  
6 of the assignment. The application or petition must also  
7 request any change in the visitation or parenting time schedule  
8 necessitated by the assignment.

9     The court may grant the parent's request for temporary  
10 assignment of visitation or physical care parenting time and  
11 any change in the visitation or physical care parenting time  
12 schedule requested if the court finds that such assignment  
13 of visitation or physical care parenting time is in the  
14 best interest of the child. The bill provides criteria for  
15 determining if the assignment is in the best interest of the  
16 child including that the grandparent is not a sex offender;  
17 that the grandparent does not have a history of domestic  
18 abuse; that the grandparent does not have a record of founded  
19 child or dependent adult abuse; that the grandparent has an  
20 established relationship; and that the grandparent demonstrates  
21 an ability to personally and financially support the child and  
22 will support the child's relationship with both of the child's  
23 parents during the assignment.

24     The bill provides that the order granting assignment of  
25 visitation or physical care parenting time does not create  
26 separate rights to visitation or physical care parenting time  
27 nor does it grant any custodial or parental rights to any  
28 person who is not the parent of the child. The order may  
29 temporarily assign visitation or physical care parenting time  
30 that is less than the visitation or physical care parenting  
31 time awarded to the parent whose visitation or physical care  
32 parenting time is assigned. A copy of the order is to be  
33 provided to the school and school district of the child to whom  
34 the order applies. The order is to specify the duration of  
35 the assignment and terminates upon completion of the specified

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1 duration period.